
STATUTORY INSTRUMENTS

2014 No. 1530

The Special Educational Needs and Disability Regulations 2014

PART 2

Children and young people with special educational needs

Mediation

Information to be included in notices sent by a local authority

32. Where a notice sent by a local authority must include the information set out in this regulation, that information is—

- (a) the right of the child's parent or young person to request mediation under section 53 or 54 of the Act;
- (b) the requirement to obtain a certificate in accordance with section 55(4) or (5) (“a mediation certificate”) before any appeal can be made to the First-tier Tribunal ^{M1};
- (c) contact details for the mediation adviser that the child's parent or young person should contact to obtain that certificate;
- (d) the timescales for requesting mediation;
- (e) the requirement to inform the local authority—
 - (i) if the parent or young person wishes to pursue mediation,
 - (ii) the mediation issues ^{M2}, and
 - (iii) where the mediation issues are or include the fact that no health care provision, or no health care provision, of a particular kind is specified in the EHC plan, the health care provision that the child's parent or young person wishes to be specified in the EHC plan;
- (f) contact details for any person acting on behalf of the local authority whom the child's parent or young person should contact if they wish to pursue mediation.

Marginal Citations

M1 The First-tier Tribunal was established under section 3 of the [Tribunals, Courts and Enforcement Act 2007 \(c.15\)](#)

M2 Mediation issues has the same meaning as in section 53(1)(b) of the Act

Requirement to consider mediation

33. Where a parent or young person is required to obtain a mediation certificate, he or she must contact the mediation adviser within 2 months after written notice of the local authority's decision

was sent, and inform the mediation adviser that he or she wishes to appeal and inform the mediation adviser whether they wish to pursue mediation.

Where a parent or young person does not wish to or fails to pursue mediation

34.—(1) Where a parent or young person who is required to obtain a mediation certificate informs the mediation adviser that he or she does not wish to pursue mediation, the mediation adviser must issue a mediation certificate under section 55(4) within 3 working days of being informed by the parent or young person.

(2) The mediation adviser may not issue such a certificate if the parent or young person did not contact the mediation adviser within 2 months of the date of the notice issued by the local authority.

(3) A parent or young person may seek leave to appeal to the First-tier Tribunal notwithstanding that he or she is required to obtain a mediation certificate and a mediation adviser has not issued a certificate to him or her, where the parent or young person has failed to comply with Regulation 33 and the time for doing so has elapsed.

Mediation – health care issues

35.—(1) This regulation applies where a parent or young person has informed the local authority that he or she wishes to pursue mediation and the mediation issues relate solely or in part to the healthcare provision specified in the EHC plan, or the fact that no health care or no health care of a particular kind is specified in the EHC plan.

(2) The local authority must, within 3 working days, from the date of being informed that the child's parent or the young person wishes to pursue mediation, notify each relevant commissioning body of—

- (a) the mediation issues; and
- (b) where the mediation issues are, or include, the fact that no health care provision, or no health care provision of a particular kind, is specified in the EHC plan, the health care provision that the child's parent or young person has informed the local authority he or she wishes to be specified in the plan.

(3) Where the mediation issues relate solely to health care provision, the responsible commissioning body (or, where there is more than one, the responsible commissioning bodies acting jointly) must arrange for mediation between it (or them) and the child's parent or young person within 30 days from the date on which it (or they) receive notification from the local authority under paragraph (2).

(4) Where the mediation issues do not relate solely to health care provision, the local authority must arrange for mediation between it, each responsible commissioning body and the parent or young person within 30 days from the date on which it was informed by the parent or young person that he or she wished to pursue mediation.

Mediation – no health care issues

36.—(1) This regulation applies where a parent or young person has informed the local authority that he or she wishes to pursue mediation and the mediation issues do not relate to health care provision.

(2) The local authority must arrange for mediation between it and the child's parent or young person, within 30 days from the date of on which it was informed by the child's parent or young person that he or she wished to pursue mediation.

Arrangements for mediation

37.—(1) The body (or bodies) arranging the mediation must ensure that it is attended by persons who have authority to resolve the mediation issues.

(2) That body must inform the child's parent or the young person of the date and place of the mediation at least 5 working days prior to the mediation unless the child's parent or the young person consents to this period of time being reduced.

Attendance at the mediation

38.—(1) The following persons may attend the mediation—

- (a) the parties to the mediation;
- (b) any advocate or other supporter that the child's parent or the young person wishes to attend the mediation;
- (c) where the child's parent is a party to the mediation, the child (with the agreement of the parent and the mediator);
- (d) where the young person's alternative person^{M3} is a party to the mediation, the young person (with the agreement of the alternative person and the mediator);
- (e) any other person, with the consent of all of the parties to the mediation, or where there is no such agreement, with the consent of the mediator.

(2) Where the child's parent is a party to the mediation, the mediator must take reasonable steps to ascertain the views of the child about the mediation issues.

(3) Where the young person's alternative person is a party to the mediation, the mediator must take reasonable steps to ascertain the views of the young person about the mediation issues.

Marginal Citations

M3 Alternative person has the meaning given in Regulation 64

Mediation certificate under section 55(5)

39.—(1) Where mediation is pursued before making an appeal to the First-tier Tribunal, the mediation adviser must issue a certificate under section 55(5) to the parent or young person within 3 working days of the conclusion of the mediation.

(2) Where mediation is pursued before making an appeal to the First-tier Tribunal and the local authority is unable to arrange for mediation within the period specified in regulation 35(4) or 36(2), the local authority must notify the mediation adviser of this fact as soon as possible after it realises that it is unable to arrange for mediation within that period.

(3) Where paragraph (2) applies, it is deemed that the child's parent or the young person has participated in mediation, and the mediation adviser will issue a certificate under section 55(5) within 3 working days of being notified of this by the local authority, whether or not the child's parent or the young person later participates in mediation.

Training, qualifications and experience of mediators

40. Mediators must have sufficient knowledge of the legislation relating to special educational needs, health and social care to be able to conduct the mediation.

Expenses

41.—(1) Subject to paragraph (2), the body arranging the mediation shall pay the following expenses in connection with the child's parent or young person attending mediation—

Table 1

<i>Item</i>	<i>Description</i>
Travel Costs	Standard class public transport fares for the parent and their child or the young person. A mileage rate of 25p per mile for travel by car or motorcycle. Taxi fares.
Repayment for loss of earnings	Loss of earnings up to £45.
Registered child or young person care expenses	Engagement of a registered child or adult carer at £5.35 per hour, per child or young person.
Overnight expenses	Expenses up to £81 per night for inner London or £71 per night for elsewhere or £21 per night if the stay is with family or friends.

(2) The body arranging the mediation may require either or both of the following conditions before making payment of a claim for expenses under paragraph (1)—

- (a) payment is made with the prior agreement of the body arranging the mediation;
- (b) payment is made upon receipt of satisfactory supporting evidence of the expenses claimed.

Steps to be taken by a local authority

42.—(1) This regulation applies where mediation has taken place and the parties to the mediation reach an agreement, to be recorded in writing (“the mediation agreement”).

(2) Where the mediation issues in the mediation agreement are those on which the child's parent or young person has a right to appeal to the First-tier Tribunal, the local authority shall comply with the time limits set out in regulation 44, as if the mediation agreement were an order of the First-tier Tribunal.

(3) Where the mediation agreement requires the local authority or responsible commissioning body to do something in relation to which the child's parent or young person has no right of appeal to the First-tier Tribunal, the local authority or responsible commissioning body must do that thing within two weeks of the date of the mediation agreement.

(4) Where the local authority was not a party to the mediation, the responsible commissioning body must notify the local authority of the mediation agreement within 1 week of the date of that agreement.

(5) The timescales referred to in paragraphs (2) and (3) do not apply where the parties to the mediation agree in writing to a different timescale.

Changes to legislation:

There are currently no known outstanding effects for the The Special Educational Needs and Disability Regulations 2014, Cross Heading: Mediation.